



September 18, 2008

**MEMORANDUM:**

**SUBJECT:** Establishment of Cashout "Special Account" for the Eagle Zinc Site, Hillsboro, Illinois, U.S. District Court Docket No. 08-3079, Site ID B5Y7

**FROM:** Thomas J. Krueger  
Office of Regional Counsel

**TO:** Linda Haile  
Program Accounting & Analysis Section

The Office of Regional Counsel and the Superfund Division request that you establish a special account for the Eagle Zinc Site ("Site") in Hillsboro, Illinois, Site ID B5Y5, to manage the monies to be received pursuant to the cost recovery settlement in U.S. District Court Docket No. 08-3079 (Southern District of Illinois). A copy of the consent decree, and the Order that entered that Decree on September 16, 2008, is attached. This request and transmittal is made in accordance with procedures outlined in the Cashout Settlement Procedures.

**Background**

Under the consent decree, within 30 days of entry the settling parties must pay \$750,000 plus statutory interest accrued from the March 28, 2008, date of lodging through the date of payment. The settlement payments will resolve the defendants' liability related to past and future costs at the Site. The settlement with defendant T.L. Diamond & Co., Inc. is based on its limited ability to pay and the settlement with defendant Theodore L. Diamond is based largely on litigation risks in pursuing him for individual liability. Mr. Diamond's payment includes a premium because the settlement also resolves his future liability, subject to limited reopeners.

**Summary of Costs**

This consent decree gives the settling defendants - T.L. Diamond & Co., Inc. and Theodore L. Diamond - a release from the United States for the United States' response costs, as well as contribution protection for those costs. U.S. EPA incurred documented response costs for the Site through May 31, 2008, of approximately \$906,000. Future response costs could range from \$3-30 million.

The additional work required at the Site will be Fund-lead. This work will be selected in Records of Decision to be issued in FY 2009.

Allocation Of Settlement Proceeds

Please place all of the settlement monies received into a special account for this Site. The \$750,000 plus accumulated interest should be available for future response costs related to the Site. Please create a reimbursable Special Account to manage the monies received pursuant to this settlement.

The attorney for this site is Thomas Krueger at (312) 886-0562, and the Remedial Project Manager is Dion Novak at (312) 886-4737.

cc: Thomas Marks (SR-6J)  
Lawrence Schmitt(S-6J)  
Dion Novak (SR-6J)  
Grace Co (SR-6J)  
Wendy Carney (SR-6J)  
Joe Poetter (Cincinnati Finance Center NWD)  
Vince Sanders (SR-6J)